



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 21, 1995

Mr. James Showen  
Senior Assistant City Attorney  
City of Tyler  
P.O. Box 2039  
Tyler, Texas 75710

OR95-1275

Dear Mr. Showen:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 36261.

The City of Tyler (the "city") received an open records request for records concerning an investigation of possible child abuse. You claim that the city may withhold the requested records from the public pursuant to section 552.101 of the Government Code.

You contend that the requested records are confidential under section 34.08 of the Family Code in conjunction with section 552.101 of the Government Code. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 34.08 was repealed by the Seventy-Fourth Legislature and will be codified at section 261.201 of the Family Code.<sup>1</sup> This Family Code provision now reads as follows:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

---

<sup>1</sup>See Act of April 6, 1995, 74th Leg., R.S., ch. 20, § 1, 1995 Tex. Sess. Law Serv. 113, 262 (Vernon); Act of May 26, 1995, 74th Leg., R.S., ch. 751, § 93, 1995 Tex. Sess. Law Serv. 3888, 3924 (Vernon).

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

*See* Act of May 26, 1995, 74th Leg., R.S., ch. 751, § 93, 1995 Tex. Sess. Law Serv. 3888, 3924 (Vernon). The requested information consists of "reports, records, communications, and working papers" used or developed in investigations made under chapter 261 of the Family Code. Because you have not cited any specific rule that the city has adopted with regard to the release of this type of information, we assume that no such regulation exists. Given that assumption, the requested records are confidential pursuant to section 261.201 of the Family Code.<sup>2</sup> *See* Open Records Decision No. 440 (1986) at 2 (predecessor statute). Accordingly, the city must withhold these records.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay  
Assistant Attorney General  
Open Records Division

LRD/rho

Ref.: ID# 36261

Enclosures: Submitted documents

---

<sup>2</sup>We note, however, that a parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect may be entitled, at least, to view the records of the investigation done by the Texas Department of Protective and Regulatory Services. *See* Act of May 26, 1995, 74th Leg., R.S., ch. 751, § 93, 1995 Tex. Sess. Law Serv. 3888, 3924 (to be codified at Fam. Code § 264.201); Act of April 6, 1995, 74th Leg., R.S., ch. 20, § 1, 1995 Tex. Sess. Law Serv. 113, 264 (to be codified at Fam. Code § 261.307).